**Written Statement Submitted by the Asian American
Center for Advancing Justice**

**House Committee on Ways and Means
Subcommittee on Social Security**

**Hearing on Social Security Administration's
Role in Verifying Employment Eligibility**

April 14, 2011

Today, the U.S. House of Representatives' Subcommittee on Social Security will hold a hearing on the Social Security Administration's (SSA) role in verifying employment eligibility. The Asian American Center for Advancing Justice ("Center for Advancing Justice") would like to express deep concern and opposition to implementing a mandatory E-Verify program nationwide. Imposing mandatory E-Verify will have a destructive impact on workers, employers, and ultimately our economy.

Collectively, the members of the Center for Advancing Justice are non-profit, non-partisan organizations that enrich and empower the Asian American and Pacific Islander (AAPI) community and other underserved populations through public policy, advocacy, litigation, research and community education. Our mission is to promote a fair and equitable society for *all* by working for civil and human rights and empowering AAPIs and other underserved communities.

E-Verify will have a particularly devastating impact on AAPI workers and small business owners. A 2009 Westat report found the error rate for foreign-born workers was *20 times higher* than that of U.S.-born workers. For our community, this is particularly troublesome because more than 8 million AAPIs are foreign born. If E-Verify is made mandatory, a disproportionate number of AAPIs will be wrongly identified and have their jobs jeopardized. The E-Verify program is of particular concern for the Limited English Proficient members of our community. The already confusing E-Verify program will be impossible to navigate for the nearly 50% of the AAPI community who speak English less than very well – where citizen and legal resident workers alike will be unduly burdened by constant misidentifications in the system.

E-Verify promotes discrimination against AAPIs, as under-trained employers may assume a worker is undocumented and unduly fire the worker or simply not hire them at all. Many AAPIs, both citizens and non-citizens, may experience tentative non-confirmations (TNCs) simply because of name mismatches if employers are confused by complex names or name order. Government employees unfamiliar with foreign names and different naming conventions might also incorrectly enter information into the databases that E-Verify uses to confirm work authorization, which also leads to errors in the confirmation process. According to USCIS,

22,512 TNCs (76% of which were for citizens) resulted from name mismatches in 2009. Other TNCs can arise when government files are not updated, like in the case of Fane:

Fane is a Tongan woman, and a naturalized U.S. citizen since 1993. When Fane started a new position at a security company, her employer told her that there was a problem with her I-9 work authorization where she received a company letter asking her to verify her eligibility to work. Fane went immediately to the Social Security Administration (SSA), where she received written verification that her social security number matched her identity. But despite showing her company the SSA verification, her U.S. passport and her Certificate of Naturalization, her company informed her that she was not allowed to return to work because her name was flagged as still having problems. As a result, Fane lost her job. This has caused extreme hardship for her, as she is a single mother. Fane was flagged simply because when she naturalized the Department of Homeland Security (DHS) did not tell SSA that she had become a U.S. citizen. This is a problem that many AAPI immigrants face, as they do not know to inform SSA of their change in citizenship status themselves.

A U.S. Department of Homeland Security study found that employer noncompliance with the E-Verify pilot program's rules was "substantial," where: 1) employers engaged in prohibited practices such as pre-employment screening, 2) took adverse employment actions based on tentative non-confirmation notices, and 3) failed to inform employees of their rights. A recent report by the U.S. General Accountability Office also indicates that USCIS remains limited in its ability to identify and prevent employer misuse of the E-Verify program, with no authority to impose penalties against employers misusing the system. Making E-Verify mandatory gives advantage to unscrupulous employers that find ways around the system.

The GAO report also stated that resolving tentative and false non-confirmations, as well as combating discrimination, remains challenging for employees. Responding to TNCs can be very time-consuming and confusing for workers. When workers have an error in their records, they often have to take unpaid time off from work to follow up with SSA, which may take more than one trip. In fiscal year 2009, 22% of workers spent more than $50 to correct database errors and 13% spent more than $100. Moreover, in 2009, the wait times for SSA office visits were 61% longer than they were in 2002. American Council on International Personnel members report that corrections at SSA usually take in excess of 90 days, and that employees must wait four or more hours per trip, with repeated trips to SSA frequently required to get their records corrected.

E-Verify will also increase the regulatory burden on employers, particularly small business owners, and siphon off already scarce governmental and financial resources. E-Verify would require all employers to spend money on compliance training, employee verification, and capable infrastructure for electronic submission and verification. These compliance costs will disproportionately affect small businesses, which have fewer resources to spare. Throughout the U.S., AAPIs own more than 1.1 million small businesses, the majority of which have small workforces and cannot afford to lose any employees actually qualified to work. According to the U.S. Census Bureau, these businesses have provided jobs to 2.2 million employees, had receipts of $326.4 billion, and generated payroll of $56 billion. With the flagging economy, we cannot afford to burden AAPI businesses any further.

Lastly, the U.S. cannot afford to divert scarce governmental and financial resources towards

funding this deeply flawed program. According to the U.S. Congressional Budget Office (CBO), implementation of a mandatory program (without legalizing the current undocumented population) would increase the number of employers and workers who resort to the black market, outside of the tax system. This would decrease federal revenue by more than $17.3 billion over ten years. Making E-Verify mandatory will worsen our deficit in the long run. Mandating use of E-verify for all employers will tax the resources of an already overburdened SSA. During the period March 1, 2009 through April 30, 2010, about 3.1 million visitors waited more than 1 hour for service, and of those visitors, over 330,000 waited more than 2 hours. Further, in fiscal year 2009, about 3.3 million visitors left a field office without receiving service.

Therefore, for the reasons aforementioned, we oppose a mandatory E-Verify program. Instead of layering E-Verify on top of a broken immigration system, we need to fix the system. We need broad reform of our immigration system that includes a path to legal status for unauthorized immigrants. This would result in a large economic benefit—a cumulative $1.5 trillion in added U.S. gross domestic product over 10 years. Thank you.